

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT

People v. Bunton

2022 NY Slip Op 03856 (N.Y. Ct. App. 2022) · No. 555 KA 17-02218 · Decided June 10, 2022

SUMMARY

The New York Appellate Division, Fourth Department, modified Ronnie Bunton's judgment by reversing and dismissing one assault in the second degree count because the evidence was legally insufficient to establish physical injury. The court affirmed the remaining convictions, concluding that the other assault conviction was not against the weight of the evidence and that the resisting-arrest count was not duplicitous.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Whalen, P.J.; Smith, J.; Centra, J.; Lindley, J.; Bannister, J.
JURISDICTION	New York
DECIDED	June 10, 2022
DOCKET	555 KA 17-02218
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a judgment of Monroe County Court convicting him, upon a jury verdict, of two counts of assault in the second degree, criminal trespass in the second degree, and resisting arrest.
STANDARD OF REVIEW	For legal sufficiency, the evidence is viewed in the light most favorable to the People. The court also reviewed the weight of the evidence in light of the elements of the offense as charged to the jury.
PRECEDENTIAL VALUE	published
PARTIES	Ronnie Bunton v. The People of the State of New York

TOPICS

- criminal procedure
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to establish the physical injury element of assault in the second degree charged in count three.
2. Whether the conviction for assault in the second degree under count two was against the weight of the evidence.
3. Whether trial testimony rendered the resisting-arrest count duplicitous.

HOLDINGS

1. The evidence was legally insufficient to establish that the officer sustained physical injury because it did not sufficiently establish substantial pain or impairment of physical condition.
2. The verdict on count two was not against the weight of the evidence.
3. The resisting-arrest count was not rendered duplicitous by the trial testimony because defendant's multiple acts constituted a single, uninterrupted crime rather than distinct criminal acts.

KEY QUOTATIONS

“'Physical injury' means impairment of physical condition or substantial pain” ([*1])

“the Legislature did not intend a wholly subjective criterion to govern” ([*1])

FACTUAL BACKGROUND

Defendant unlawfully entered a residence and attempted to evade arrest, injuring two police officers during the struggle. One officer testified that he experienced substantial pain in his left upper thigh/groin area and rated the pain six or seven out of ten. The record contained only a vague description of the injury, no medical records or testimony about medication, and no evidence that the officer missed work or was unable to perform activities.

PROCEDURAL HISTORY

The Monroe County Court entered judgment on September 13, 2017, after a jury convicted defendant of the charged offenses. On appeal, the Appellate Division unanimously modified the judgment by reversing the conviction on count three of the indictment and dismissing that count, and affirmed the judgment as modified.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment was modified by reversing the part convicting defendant of assault in the second degree under count three and dismissing that count of the indictment; the judgment was affirmed as modified.

CASES CITED

- Matter of Philip A., 49 NY2d 198, 200 [1980]
- People v Haynes, 104 AD3d 1142, 1143 [4th Dept 2013], lv denied 22 NY3d 1156 [2014]
- People v Chiddick, 8 NY3d 445, 447-448 [2007]
- People v Thompson, 179 AD3d 474, 474 [1st Dept 2020], lv denied 35 NY3d 945 [2020]
- People v Talbott, 158 AD3d 1053, 1054 [4th Dept 2018], lv denied 31 NY3d 1088 [2018]
- People v Allen, 36 NY3d 1033, 1034 [2021]
- People v Zalevsky, 82 AD3d 1136, 1137 [2d Dept 2011], lv denied 19 NY3d 978 [2012], reconsideration denied 19 NY3d 1106 [2012]
- People v Winchester, 14 AD3d 939, 941 [3d Dept 2005], lv denied 5 NY3d 796 [2005]
- People v Bleakley, 69 NY2d 490, 495 [1987]
- People v Danielson, 9 NY3d 342, 349 [2007]
- People v Alonzo, 16 NY3d 267, 269-270 [2011]
- People v Bennett, 52 AD3d 1185, 1186 [4th Dept 2008], lv denied 11 NY3d 734 [2008]